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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. 1D-2005-64368

LESLIE NICHOLE TOBIAS
1927 Thayer Avenue
Los Angeles, California 90025,

STATEMENT OF ISSUES

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Statement of Issues solely in his official capacity as the Executive Officer of the Physical Therapy Board of California (Board).

2. On or about July 20, 2005, the Board received from Leslie Nichole Tobias (Respondent) an application dated July 18, 2005, seeking licensure as a Physical Therapist. Respondent's application was denied on or about April 21, 2006.

JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following sections of the Business and Professions Code (Code).

4. Section 2660.2, subdivision (a) of the Code provides that the Board may refuse a license to any applicant guilty of unprofessional conduct or, in its sole discretion, may

1 issue a probationary license to an applicant who is guilty of unprofessional conduct.

2 5. Section 2660 of the Code in part states:

3 “The board may, after the conduct of appropriate proceedings under the
4 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or
5 impose probationary conditions upon any license, certificate, or approval issued under
6 this chapter for unprofessional conduct that includes, but is not limited to, one or any
7 combination of the following causes:

8 “... .

9 “(d) Conviction of a crime which substantially relates to the qualifications,
10 functions, or duties of a physical therapist or physical therapy assistant. The record of
11 conviction or a certified copy thereof shall be conclusive evidence of that conviction.

12 “... .

13 “(l) The commission of any fraudulent, dishonest, or corrupt act which is
14 substantially related to the qualifications, functions, or duties of a physical therapist or
15 physical therapy assistant.”

16 “... .”

17 6. Section 480 of the Code in part states:

18 “(a) A board may deny a license regulated by this code on the grounds that the
19 applicant has one of the following:

20 “(l) Been convicted of a crime. A conviction within the meaning of this section
21 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any
22 action which a board is permitted to take following the establishment of a conviction may
23 be taken when the time for appeal has elapsed, or the judgment of conviction has been
24 affirmed on appeal, or when an order granting probation is made suspending the
25 imposition of sentence, irrespective of a subsequent order under the provisions of Section
26 1203.4 of the Penal Code.

27 “(2) Done any act involving dishonesty, fraud or deceit with the intent to
28 substantially benefit himself or another, or substantially injure another; or

1 “(3) Done any act which if done by a licentiate of the business or profession in
2 question, would be grounds for suspension or revocation of license.

3 “The board may deny a license pursuant to this subdivision only if the crime or act
4 is substantially related to the qualifications, functions or duties of the business or
5 profession for which application is made.

6 “. . .”

7
8 **FIRST CAUSE FOR DENIAL OF APPLICATION**

9 (Conviction of a Crime in 2003)

10 7. The application of Respondent Leslie Nichole Tobias is subject to denial
11 under sections 480, subdivision (a)(1), and 2660, subdivision (d) of the Code for having been
12 convicted of a crime that is substantially related to the qualifications, functions or duties of a
13 physical therapist. The facts and circumstances are as follows:

14 A. On or about March 28, 2003, in Superior Court, Los Angeles County,
15 Respondent was charged by felony complaint in Case No. SA048137 with the following
16 offenses:

17 Count 1 - Driving a vehicle under the influence of alcohol and causing
18 bodily injury to another person in violation of Vehicle Code section 23153,
19 subdivision (a);

20 Count 2 - Driving a vehicle with a blood alcohol level of .08 percent or
21 more and causing bodily injury to another person in violation of Vehicle Code
22 section 23153, subdivision (b);

23 Count 3 - Leaving the scene as the driver of a vehicle involved in an
24 accident resulting in bodily injury to another person in violation of Vehicle Code
25 section 20001, subdivision (a).

26 B. On or about October 16, 2003, Respondent was convicted by plea of nolo
27 contendere to the felony offense of driving a vehicle while under the influence of alcohol
28 and causing bodily injury to another person as charged in Count 1 of the felony

1 complaint. Counts 2 and 3 were dismissed in the interests of justice. Because this was
2 Respondent's second driving under the influence conviction within a ten-year period, she
3 was required to participate in and complete a California Department of Alcohol and Drug
4 Programs (ADP) licensed 18-month driving-under-the-influence program.

5 C. On October 16, 2003, the court ordered the imposition of sentence to be
6 suspended and Respondent was placed on formal probation for 60 months (5 years).
7 Among the terms and conditions of probation, Respondent was required to (1) serve 180
8 days in the county jail or at the Better Innovations Treatment Program, (2) participate in
9 an 18-month ADP treatment or counseling program, (3) observe the restrictions limiting
10 her driving privileges for 90 days to driving to and from and during work and to and from
11 the ADP program, and (4) pay fines, penalties and restitution totaling \$2,138.00.

12 D. The facts and circumstances underlying the conviction are as follows:

13 (i) On the evening of February 12, 2003, Respondent drove her friend, Erika,
14 to a restaurant/bar in Hollywood where they consumed alcoholic beverages from
15 approximately 11:00 p.m. to 1:15 a.m. on February 13. After leaving the
16 establishment, Respondent drove towards her home with Erika passed out in the right
17 front passenger seat. As Respondent proceeded west on Sunset Boulevard, she collided
18 with a car which was parked in the right lane on Sunset. The driver of the parked vehicle
19 had been standing outside the car depositing items in a trash can and when he saw
20 Respondent's vehicle approaching, he tried to flag her down. Respondent struck the
21 parked vehicle and the force of the collision moved it into the east-bound lanes of
22 Sunset Boulevard. Respondent left the scene without determining if anyone was in the
23 vehicle or making contact with the driver. The police were notified of the accident at
24 approximately 2:10 a.m. on February 13.

25 (ii) The force of the collision knocked the front license plate from
26 Respondent's vehicle and the police located it at the scene of the accident. Using the
27 license plate number, the police went to Respondent's residence and found her vehicle a
28 half block from her residence address. The driver's side airbag had deployed and there

1 were blood splatters on the airbag and on the driver's side door by the outside door
2 handle. In addition to heavy front end damage, the front passenger side windshield was
3 shattered and contained blood and human tissue, indicating that it had been struck by
4 someone's head.

5 (iii) Respondent was observed standing on the sidewalk in front of her
6 residence and she acknowledged to the police that she was the owner and driver of the
7 vehicle the police saw on the street. In response to an inquiry about the front seat
8 passenger, Respondent told the police Erika was inside her house taking care of her
9 injuries. The police investigated Erika's status and observed that she was bleeding from
10 several lacerations to her forehead. These injuries were treated by paramedics from the
11 City of Los Angeles Fire Department.

12 (iv) When the police first encountered Respondent at 3:25 a.m. on February
13 13, the officers detected an odor of alcohol on her breath. Respondent admitted leaving
14 the scene of the accident because she had been drinking and she was placed under arrest
15 for hit and run and driving under the influence of alcohol. The police conducted a field
16 sobriety test which Respondent failed. She agreed to a breath test which at 4:12 a.m.
17 disclosed her blood alcohol level to be .19 and .18 percent.

18 19 **SECOND CAUSE FOR DENIAL OF APPLICATION**

20 (Conviction of a Crime in 1999)

21 8. The application of Respondent Leslie Nichole Tobias is further subject to
22 denial under sections 480, subdivision (a)(1), and 2660, subdivision (d) of the Code for having
23 been convicted of a crime that is substantially related to the qualifications, functions or duties of
24 a physical therapist. The facts and circumstances are as follows:

25 A. On or about January 27, 1999, in Superior Court, Orange County,
26 Respondent was charged by misdemeanor complaint in Case No. 99MN01343 with the
27 following offenses:

28 Count 1 - Driving a vehicle under the influence of alcohol on or about

1 January 16, 1999, in violation of Vehicle Code section 23152, subdivision (a);
2 Count 2 - Driving a vehicle with a blood alcohol level of .08 percent~~more~~
3 on or about January 16, 1999, in violation of Vehicle Code section 23153, subdivision
4 (b).

5 B. On April 29 and May 5, 1999, the charges were litigated before a judge in
6 a non-jury trial and on May 5, Respondent was convicted of both counts 1 and 2. At the
7 sentence hearing on May 5, the court ordered the imposition of sentence to be suspended
8 and Respondent was placed on informal probation for 3 years. Among the terms and
9 conditions of probation, Respondent was required as to count 1 to pay a fine of \$390.00
10 plus assessments or complete 78 hours of community service and to observe the
11 restrictions on her DMV license which for 90 days limited her to driving only to and from
12 her employment, during her employment and to and from any treatment program. In
13 addition, Respondent was required to pay a restitution fine and alcohol abuse education
14 fees and fines totaling \$187.00 and to enroll in and complete an alcohol focused First
15 Offender Program.

16 17 **THIRD CAUSE FOR DENIAL OF APPLICATION**

18 (Dishonesty)

19 9. The application of Respondent Leslie Nichole Tobias is still further
20 subject to denial under sections 480, subdivisions (a)(2), (a)(3), and 2660, subdivision (l) of the
21 Code for having committed an act of dishonesty that is substantially related to the qualifications,
22 functions or duties of a physical therapist and/or was committed with the intent to substantially
23 benefit herself. The facts and circumstances are as follows:

24 A. The facts and allegations in paragraph 7, subparagraphs A through C, are
25 incorporated here by reference.

26 B. On or about May 5, 1999, in Superior Court, Orange County, Case No.
27 99MN01343, Respondent was convicted after a court trial of the misdemeanor offenses
28 (1) driving a vehicle under the influence of alcohol in violation of Vehicle Code section

1 23152, subdivision (a), and (2) driving a vehicle with a blood alcohol level of .08 percent
2 or more in violation of Vehicle Code section 23153, subdivision (b). Following her
3 completion of the three-year probation period for this conviction, Respondent, on or
4 about August 26, 2004, petitioned the court under the provisions of Penal Code section
5 1203.4 to have the guilty verdict set aside and the criminal complaint dismissed.¹
6 Respondent signed the petition on August 26, 2004, asserting under penalty of perjury
7 that the statements in the petition were true and correct. The petition was granted on
8 September 21, 2004.

9 C. As part of the petition, Respondent checked a box indicating that she was
10 not “on probation for any offense or charged with the commission of any offense.”
11 When Respondent signed the petition on August 26, 2004, she was still on probation in
12 Case No. SA048137, Superior Court, Los Angeles County. The five-year probation
13 period in Case No. SA048137 commenced on October 16, 2003, and had neither expired
14 nor had been otherwise terminated when Respondent signed the petition under penalty of
15 perjury on August 26, 2004. Respondent was dishonest when she signed the petition
16 which contained the representation that she was not on probation for any offense or had
17 been charged with any offense. Respondent signed the petition to achieve the benefit of
18 having the guilty verdict set aside and criminal complaint dismissed in Case No.
19 99MN01343.

20
21 **PRAYER**

22 **WHEREFORE**, Complainant requests that a hearing be held on the matters
23 herein alleged, and that following the hearing, the Board issue a decision:

24 1. Denying the application of Leslie Nichole Tobias, Respondent, for
25 licensure as a Physical Therapist;

26 _____
27 1. Penal Code section 1203.4, subdivision (a), does not relieve a criminal defendant from
28 disclosing the conviction in any questionnaire or application for public office or for licensure by
any state or local agency.

1 2. Ordering Respondent, if placed on probation, to pay the costs of probation
2 monitoring; and,

3 3. Taking such other and further action as deemed necessary and proper.

4 DATED: August 30, 2006.

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7 Original Signed By:
8 STEVEN K. HARTZELL
9 Executive Officer
10 Physical Therapy Board of California
11 Department of Consumer Affairs
12 State of California
13 Complainant
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